



Virginia
Regulatory
Town Hall

Exempt Action Final Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services (12 VAC 30)
VAC Chapter Number:	Chapter 12VAC30-30-20
Regulation Title:	Optional groups other than the medically needy
Action Title:	Coverage of Women Screened/Diagnosed with Breast and Cervical Cancer
Date:	4/25/2001; Effective 7/1/2001

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) that requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1(C) at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar at the proposed stage.

In addition, agency actions exempt pursuant to § 9-6.14:4.1(B) of the APA are not subject to the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and therefore are not subject to publication. Please refer to the *Virginia Register Form, Style and Procedure Manual* for more information.

Summary

Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The purpose of this regulatory action is to provide Medicaid coverage to uninsured women under age 65 who have been screened under the Centers for Disease Control and Prevention's Breast

and Cervical Cancer Early Detection Program and need treatment for breast or cervical cancer, including pre-cancerous conditions of the breast or cervix.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency .including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

I hereby approve the foregoing Regulatory Review Summary with the attached amended State Plan pages and adopt the action stated therein. Because this final regulation is exempt from the public notice and comment requirements of the Administrative Process Act (Code 9-6.14:4.1 C), the Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Date

C. Mack Brankley, Acting Director
Department of Medical Assistance Services

Additional Information

Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.

Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG’s certification is not required for Marine Resources Commission regulations.

If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.

The sections of the State Plan affected by this action are Attachment 2.2-A (12VAC30-30-20).

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA – the Act) (Public Law 106-354) amended Title XIX of the Social Security Act to give states the option to provide Medicaid eligibility to a new group of individuals previously not eligible under the program and to provide enhanced matching funds for coverage of this new group. The new option allows Virginia to provide full Medicaid benefits to uninsured women under age 65 who are identified through the Centers for Disease Control and Prevention’s (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and are in need of treatment of breast or cervical cancer, including pre-cancerous conditions and early stage cancer.

Senate Bill 1377 enacted in the 2001 Session of the General Assembly requires the Department to include coverage of this new Optional Categorically Needy group in the State Plan for Medical Assistance.

The Virginia Department of Health (VDH) operates the federal Breast and Cervical Cancer Early Detection Program in the Commonwealth and receives a grant through the Centers for Disease Control and Prevention (CDC) to promote breast and cervical cancer screening. Local health departments, clinics and major medical centers are responsible for conducting the screenings. Grant funds are used to pay for screening services for eligible women, however, the federal law which authorizes the grants does not allow CDC to pay for treatment services for those women who are diagnosed with breast or cervical cancer. Since 1997, 62 women enrolled in the screening program have been diagnosed with breast cancer and 13 have been diagnosed with cervical cancer.

It is difficult for many uninsured women who are screened and diagnosed through the CDC programs to obtain timely access to treatment services. The Breast and Cervical Cancer Prevention and Treatment Act allows states to provide coverage of these women under Medicaid. In order to qualify under this new Optional Categorically Needy eligibility group, the woman must meet certain requirements. First, the woman must have been screened for breast and cervical cancer under the CDC Breast and Cervical Cancer Early Detection Program and found to need treatment for either breast or cervical cancer. Secondly, she must be uninsured. She must not otherwise have creditable coverage and must not be eligible under any of the mandatory Medicaid eligibility groups. There is no requirement that there be a waiting period of prior insurance before a woman who has been screened under the CDC program can become eligible for Medicaid. Finally, the woman must be under 65 years of age.

A woman whose eligibility is based on this new Optional Categorically Needy group is entitled to full Medicaid coverage; coverage is not limited to coverage for treatment of breast and cervical cancer.

Medicaid coverage under this new eligibility group is for individuals whose diagnosis was made through a NBCCEDP entity. CDC considers a woman to have been screened under the CDC program if CDC Title XV funds paid for all or part of the costs of her screening services. The woman is also considered to be screened by CDC when her screening was rendered by a provider or an entity funded by Title XV funds at least in part. Additionally, the woman is considered as screened under the CDC if the screening is done as part of other Title XV funding to a State Title XV grantee. As long as one of these criteria is met, the woman will be considered eligible for Medicaid.

DMAS estimates that total breast cancer treatment costs resulting from this bill will amount to approximately \$1.8 million (\$593,437 GF) in FY 2002 and \$2.1 million (\$717,902 GF) in FY 2003. DMAS estimates that total cervical cancer treatment costs resulting from this bill will be \$67,085 (\$22,748 GF) in FY 2002 and \$92,429 (\$31,472 GF) in 2003. These costs will be absorbed within existing appropriations and will be included in DMAS' Medicaid expenditures forecast presented to the Governor and General Assembly next year.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action will not have any negative affects on the institution of the family or family stability. It is expected that the early diagnosis and treatment of breast and cervical cancer will reduce mortality and strengthen family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will encourage economic self-sufficiency, self-pride, and the assumption of family responsibilities.